

Bureau of Indian Affairs, Interior

§ 11.304

funds, in accordance with existing regulations, upon order of the clerk of the court signed by a judge of the court for the payment of specified expenses. The disbursing agent and the clerk of the court shall keep an account of all such deposits and withdrawals available for public inspection.

Subpart C—Criminal Procedure

§ 11.300 Complaints.

(a) A complaint is a written statement of the essential facts charging that a named individual(s) has committed a particular offense. All criminal prosecutions shall be initiated by a complaint filed with the court by a law enforcement officer and sworn to by a person having personal knowledge of the offense.

(b) Complaints shall contain:

(1) The signature of the complaining witness, or witnesses, sworn before a magistrate, a court clerk, a prosecutor, or any law enforcement officer.

(2) A written statement by the complaining witness or witnesses having personal knowledge of the violation, describing in ordinary language the nature of the offense committed including the time and place as nearly as may be ascertained.

(3) The name or description of the person alleged to have committed the offense.

(4) A description of the offense charged and the section of the code allegedly violated.

(c) Complaints must be submitted without unnecessary delay by a law enforcement officer to the prosecutor and, if he or she approves, to a judge to determine whether an arrest warrant or summons should be issued.

(d) When an accused has been arrested without a warrant, a complaint shall be filed forthwith with the court for review as to whether probable cause exists to hold the accused, and in no instance shall a complaint be filed later than at the time of arraignment.

§ 11.301 Arrests.

(a) Arrest is the taking of a person into police custody in order that he or she may be held to answer for a criminal offense.

(b) No law enforcement officer shall arrest any person for a criminal offense except when:

(1) The officer shall have a warrant signed by a magistrate commanding the arrest of such person, or the officer knows for a certainty that such a warrant has been issued; or

(2) The offense shall occur in the presence of the arresting officer; or

(3) The officer shall have probable cause to believe that the person arrested has committed an offense.

§ 11.302 Arrest warrants.

(a) Each magistrate of a Court of Indian Offenses shall have the authority to issue warrants to apprehend any person the magistrate has probable cause to believe has committed a criminal offense in violation of the regulations under this part based on a written complaint filed with the court by a law enforcement officer and bearing the signature of the complainant.

(b) The arrest warrant shall contain the following information:

(1) Name or description and address, if known, of the person to be arrested.

(2) Date of issuance of the warrant.

(3) Description of the offense charged.

(4) Signature of the issuing magistrate.

(c) Such warrants may be served only by a BIA or tribal police officer or other officer commissioned to enforce the regulations of this part.

§ 11.303 Notification of rights prior to custodial interrogation.

Prior to custodial interrogation, the suspect shall be advised of the following rights:

(a) That he or she has the right to remain silent.

(b) That any statements made by him or her may be used against him or her in court.

(c) That he or she has the right to obtain counsel and, if indigent, to have counsel appointed for him/her.

§ 11.304 Summons in lieu of warrant.

(a) When otherwise authorized to arrest a suspect, a law enforcement officer or a magistrate may, in lieu of a warrant, issue a summons commanding the accused to appear before the Court